

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BERNSTEIN, et al.,

Plaintiffs,

-v-

CENGAGE LEARNING, INC.,

Defendant.

CIVIL ACTION NO.: 19 Civ. 7541 (ALC) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge.

Before the Court are Plaintiffs’ letter-motions to compel a supplemental response to their Interrogatory No. 2 (the “Motion to Compel” (ECF Nos. 80–81)). Pursuant to the discovery conference held today, April 7, 2021 (“Discovery Conference”), Plaintiffs’ Motion to Compel is GRANTED IN PART AND DENIED IN PART as follows:

1. Defendant Cengage Learning, Inc. (“Cengage”) shall produce to Plaintiffs by **Monday, May 3, 2021** (the “Substantial Completion Deadline” (ECF No. 71 ¶ 3(a))), its document “listing [publishing] agreements with product families” (the “List”). (ECF No. 85 at 2).¹
2. Cengage shall undertake to determine whether it can produce to Plaintiffs, as soon as practicable, an interim snapshot or exemplar of the List.
3. Plaintiffs shall undertake to identify a sample size of MindTap Works for which they are seeking to identify the applicable publishing agreements to be discussed at the conference scheduled below.

¹ As described in Cengage’s Letter Response to Plaintiffs’ Motion to Compel (ECF No. 85), Cengage “is currently . . . compiling a list of the agreements in its possession that pertain to certain product families on which it is currently paying out royalties . . . [which would] allow[] Plaintiffs to search for contracts relevant to any author that they choose.” (ECF No. 85 at 2).

4. After production to Plaintiffs of the List, Cengage shall serve an amended response to Plaintiffs' Interrogatory No. 2 by no later than **Monday, May 10, 2021**.
5. In the interest of transparency, fairness, and the "just, speedy, and inexpensive determination" of this action, Fed. R. Civ. P. 1, before briefing the anticipated class certification motion, the Court expects the parties to confer regarding the publishing agreements for the Works each party intends to address in its class certification briefing.

The Court will hold a telephone conference on **Monday, May 24, 2021, at 11:00 am** on the Court's conference line. The parties may, but are not required to, submit a status report in advance. The parties are directed to call: (866) 390-1828; access code: 380-9799, at the scheduled time.

The Clerk of Court is respectfully directed to close ECF Nos. 80–81.

Dated: New York, New York
April 7, 2021

SO ORDERED


SARAH L. CAVE
United States Magistrate Judge